

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14367 of William G. Middleton, Jr., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the floor area ratio requirements (Sub-section 3302.1 and Paragraph 7105.12) and from the prohibition against allowing an addition to a nonconforming structure which now exceeds the lot occupancy requirements (Paragraph 7105.12) to construct an addition to a dwelling, a nonconforming structure, in an R-5-B District at premises 1749 - 18th Street, N.W., (Square 153, Lot 94).

HEARING DATE: December 11, 1985

DECISION DATE: December 11, 1985 (Bench Decision)

FINDINGS OF FACT

1. The subject site known as premises 1749 - 18th Street N.W. is located on the east side of 18th Street between S Street and Riggs Place. It is in an R-5-B District.
2. The subject site is rectangular in shape with a frontage of 18 feet along 18th Street and a depth of 52 feet. A 12 foot wide public alley runs along the south property line.
3. The R-5-B District extends in all directions from the subject site. A C-2-A District is located approximately 120 feet north of the subject site along 18th Street.
4. The subject site is improved with a three and a half story brick semi-detached townhouse constructed prior to May 12, 1958, the effective date of the current Zoning Regulation. At that time the site became nonconforming.
5. The top three floors of the subject structure are occupied by the applicant and his family. The basement is a residential rental unit.
6. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicant is seeking variances from the floor area ratio requirements (Sub-section 3302.1 and Paragraph 7105.12) and from the prohibition against allowing an addition to a nonconforming structure which now exceeds the lot occupancy requirements (Paragraph 7105.12) to construct a solarium addition to the third floor of the subject structure.

7. Paragraph 8207.11 authorizes the Board to grant an area variance where by reason of exceptional narrowness shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional difficulties to the owner of such property provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map.

8. Sub-section 3302.1 permits a maximum FAR of 1.8 for all structures in the R-5-B District or 1684.8 square feet for the subject structure. The existing structure contains 2275 square feet and the proposed addition will contain 176 square feet adding up to a total structure of 2451.0 square feet. This amount exceeds the allowable FAR by 766.2 square feet (45.5 percent).

9. Paragraph 7105.12 states that enlargements or additions may be made to a non-conforming structure provided such structure is conforming as to percentage of lot occupancy, and further provided that the addition or enlargement itself is conforming as to use and structure, does not increase or extend any existing nonconforming aspect of the structure, and does not create any new nonconformity of structure and addition combined. The subject structure has a non-conforming FAR and the addition will increase the FAR.

10. The structure is also nonconforming in regards to its lot occupancy. The allowed lot occupancy is 60 percent or 561.6 square feet. The structure is currently 784 square feet. The addition will not increase the lot occupancy.

11. The proposed addition will measure approximately 12 feet two inches by 18 feet four inches. It will extend 13 feet above the existing roof line. The existing brick will be raised three feet. The top ten feet will consist of dark brown aluminum banding and glass.

12. The addition will be located above and accessible by the existing kitchen.

13. The addition is intended to provide a family/T.V. room for the applicant and his family who live in the subject structure. The house contains a small living room, dining room, kitchen and bedroom.

14. The proposed addition would remain transparent and the applicant will provide a covenant in his deed to that effect.

15. The buildings to the south of the subject site are of the same height, depth and lot size as the existing subject structure and proposed addition.

16. The lot size of the subject site can not be increased because of the existing alley and adverse ownership of adjacent lots.

17. By letter dated December 3, 1985, Advisory Neighborhood Commission (ANC) 2B reported that it voted to recommend approval of the subject application. No issues or concerns were expressed. The Board finds that it is required by statute to give "great weight" to the ANC only when its reasoning and recommendations are reduced to written form.

18. By letter dated December 10, 1985, the Residential Action Coalition, (RAC) reported its support for the subject application provided that:

- A. The proposed greenhouse-type addition be transparent, and not made opaque in the future.
- B. That a covenanted restriction, to the effect that the transparent aspect of the addition may not be altered, be added to the deed to the house, so that any future owner would be bound to keep the addition transparent.

19. By report dated August 5, 1985 the Historic Preservation Review Board stated that it approved the conceptual design of the proposed addition.

20. Owners of the lots adjacent to, across the alley from and in the rear of the subject structure all submitted letters to the record in support of the subject application stating that the addition will have no adverse impact on their properties and will reflect well on the neighborhood.

21. One letter submitted to the record stated that the subject site is in a residential neighborhood and that the District should "hold the line" on the expansion of commercial structures. The Board finds that the applicant does not proposed a commercial use for the structure.

22. An additional letter was submitted to the record in opposition to the subject application on the grounds that such variances should not be permitted in residential neighborhoods. The Board does not find such a bold statement persuasive.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which

requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met the burden of proof. The practical difficulty is inherent in the land. The subject site became nonconforming on May 12, 1958 with regards to lot occupancy and FAR. The proposed addition will not increase the lot occupancy. Because of adverse ownership of adjacent lots the subject site can not be enlarged to conform with the lot occupancy requirements.


Further since the proposed addition will be small and constructed primarily of glass it will be unobtrusive. The Board notes the support the proposal has received from the neighborhood. The Board concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan.

Accordingly, it is ORDERED the the application is GRANTED.

VOTE: 3-0 (Maybelle T. Bennett, William F. McIntosh, Charles R. Norris to grant; Carrie L. Thornhill, Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
CECIL B. TUCKER  
Acting Executive Director

FINAL DATE OF ORDER: 08 APR 1975

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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